

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF MISSOURI**

|                           |   |                                       |
|---------------------------|---|---------------------------------------|
| <b>DAYLAN HURST,</b>      | ) |                                       |
|                           | ) |                                       |
| <b>Plaintiff,</b>         | ) |                                       |
|                           | ) |                                       |
| <b>v.</b>                 | ) | <b>Case No.:</b>                      |
|                           | ) |                                       |
| <b>HAMRA ENTERPRISES,</b> | ) | <b>Removed from the Circuit Court</b> |
|                           | ) | <b>of Clay County, Missouri,</b>      |
|                           | ) | <b>Case No. 19CY-CV06856</b>          |
| <b>Defendant.</b>         | ) |                                       |

**NOTICE OF REMOVAL OF DEFENDANT**

COMES NOW Defendant Wendy's of Missouri, Inc., incorrectly named in Plaintiff's Petition as "Hamra Enterprises," ("Defendant") by and through its undersigned counsel, and pursuant to 28 U.S.C. Section 1441(a), hereby gives notice of the removal of this action to the United States District Court for the Western District of Missouri, from the Circuit Court of Clay County, Missouri and, as grounds for the removal, this Defendant states:

1. On or about June 26, 2019, Plaintiff Daylan Hurst filed her Petition in Damages in the Circuit Court of Clay County, Missouri in the matter styled *Daylan Hurst v. Hamra Enterprises*, Case No. 19CY-CV06856. A copy of the Petition in Damages and Summons, which constitute all of the pleadings, process and orders served upon Defendant, are attached hereto as **Exhibits A and B**, respectively.
2. Service of the Summons and Petition were perfected upon Defendant on October 4, 2019.
3. Defendant has not filed any pleadings or papers in this action in state court.
4. The thirty (30) day period during which Defendant may file a Notice of Removal has not yet expired.

5. Count I of Plaintiff's Petition alleges a violation of the Americans with Disabilities Act, 42 U.S.C. § 12112(a), et seq., specifically discrimination on the basis of a disability.

6. Count II of Plaintiff's Petition alleges retaliation under the Americans with Disabilities Act, 42 U.S.C. § 12112(a), et seq.

7. Because Count I and Count II present a federal question arising under the laws of the United States, this Court has original jurisdiction over Count I and Count II pursuant to 28 U.S.C. § 1331.

8. Removal of this action is proper under 28 U.S.C. § 1441(a), which states in pertinent part:

Except as otherwise expressly provided by Act of Congress, any civil action brought in a State court of which the district courts of the United States have original jurisdiction, may be removed by the defendant or the defendants, to the district court of the United States for the district and division embracing the place where such action is pending.

9. Defendant has given written Notice of Removal to Plaintiff and will file a copy of this Notice of Removal with the Circuit Court of Clay County, Missouri, in Case No. 19CY-CV06856, as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant removes this action from the Circuit Court of Clay County, Missouri to this Honorable Court.

**ELLIS, ELLIS, HAMMONS & JOHNSON, P.C.**

/s/ Todd A. Johnson

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**ATTORNEY FOR DEFENDANT**

**WENDY'S OF MISSOURI, INC.**

**CERTIFICATE OF SERVICE**

I hereby certify that on this 31<sup>st</sup> day of October 2019, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, and a copy was made available to all electronic filing participants.

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